

REMARKS

Claims 1-3, 5-19, 21-29, and 31-33 are currently pending in this application. Claims 1, 5, 7, 18, 21, 22, and 29 have been amended. Claims 4, 20, and 30 have been canceled without prejudice. Claims 31-33 have been added. No new matter has been added. The amendments have merely imported limitations from dependent claims into independent claims and deleted trademarks objected to by the Office. Support for the newly added claims can be found on page 1, line 28 through page 2, line 4 of the specification.

The following remarks put the pending claims in condition for allowance. Applicants respectfully request reconsideration and the timely allowance of the pending claims.

35 U.S.C. § 112 Rejections

Claims 7, 21, 29, and 30 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention

Specifically, the Office notes that the claims include trademarks and that “the trademark is used to identify software and, accordingly, the identification/description is indefinite.” Applicants have deleted all claim language containing trademarks by the present amendment. Therefore, Applicants respectfully request the withdrawal of the rejection based on 35 U.S.C. § 112, second paragraph.

35 U.S.C. § 102(e) Rejection Based on Bharat

Claims 1-14 and 16-30 stand rejected under 35 U.S.C. 102(e) as being anticipated by Bharat, U.S. Patent No. 6,577,735, (hereinafter "Bharat").

As currently amended, the present invention is drawn to methods, computer readable media, and apparatuses for selectively shadowing only accesses to external storage media to a computer. The invention includes detecting a data access to an external storage medium. The invention further includes writing a copy of the accessed data to a storage location other than the external storage medium. The step of detecting includes intercepting an I/O request from the computer to an external storage media drive in which the external storage media is inserted. Accordingly, for anticipation, the prior art must teach intercepting an I/O request from a computer to an external storage media drive and writing a copy of the requested data to a storage location different from the external storage medium.

Bharat fails to teach each and every limitation of the present invention. Bharat is directed towards creating an encrypted copy of a compressed audio file on a computer hard drive when an external storage media is inserted into the computer. Bharat fails to teach the interception of an I/O request from a computer to an external storage media drive and writing a copy of the requested data to a storage location different from the external storage medium. Unlike the present invention, Bharat is not concerned with the restriction of copying of potentially sensitive data to portable media. In fact, Bharat aims to facilitate copying of data to portable media.

Specifically, Bharat teaches a method comprising receiving a user's choices of tracks to be downloaded from a CD, compressing the selected tracks,

and storing the compressed tracks on a computer hard drive. The compressed tracks can then be downloaded on a portable audio player such as an MP3 player. After the compressed tracks are stored on the computer hard drive, a cryptographic key is generated based on the data on the CD and this key is used to create an encrypted version of the compressed audio data which is then also stored on the hard disk of the computer (see column 5, line 38 through column 6, line 50 of Bharat). In other words, the copy of the accessed data to the hard drive can only be written after the data has been accessed from the CD since this copy is generated from the compressed data on the CD and not from the CD itself. Accordingly, Bharat fails to teach intercepting an I/O request from the computer to an external storage media drive in which the external storage media is inserted, as is claimed, since an interception must inherently take place before the request is granted.

The Office relies on column 7, lines 48-60 of the specification of Bharat for the purported teaching of intercepting an I/O request from a computer to an external storage media drive. That particular passage is directed towards determining whether a CD is authentic, checking the accuracy of a decrypted version of a back up file copied from the authentic CD, and decrypting the encrypted version if the CD is found to be authentic. A decryption key is generated to decrypt a portion of the back up file and then the decrypted data is compared to the unauthenticated CD. The CD is then determined to be authentic if the two reasonably match and determined to be the incorrect CD if a match is not determined. Accordingly, the step of writing a copy of the accessed data to a storage location other than the external storage medium never occurs. In the authentication process, no data from the CD or the hard drive is ever written to the hard drive. Bharat is only concerned with reading the external storage media and comparing it to the decrypted data. Thus, even if *arguendo*, this passage describes intercepting an I/O request, it certainly does not teach

writing a copy of the accessed data to a storage location other than the external storage medium, as is claimed.

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. In deciding the issue of anticipation, the trier of fact must identify the elements of the claims, determine their meaning in light of the specification and prosecution history, and identify corresponding elements disclosed in the allegedly anticipating reference. *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.* 730 F.2d 1452, 1462; 221 USPQ 481, 485 (Fed. Cir. 1984). Further, these corresponding elements cannot be taken piecemeal from the allegedly anticipating reference without regards to their context. In the instant case, the step of intercepting an I/O request is taken from a method of authenticating a CD while the other elements of the claimed invention are taken from a method of creating an encrypted copy of data from a CD. That is, the requested data that is allegedly intercepted is not the same data that is allegedly written to the storage location other than the external storage medium. This clearly does not rise to the level of anticipation.

It should also be noted that Bharat is concerned strictly with audio data. The present invention is directed towards monitoring usage and tracing access to external devices and media. The type of data that a user may attempt to access may include any type of data including but certainly not limited to audio data.

Since Bharat fails to teach each and every limitation of the claimed invention, Bharat cannot anticipate the claimed invention. Accordingly, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. 102(e) based on Bharat.

Claims 2 and 19 are novel over Bharat for additional reasons. These claims require the step of detecting a write operation to an external storage medium. There is no indication in Bharat that the CD is even writable and there is certainly no teaching of a user ever requesting a write operation to the CD never mind the step of detecting such a write operation request. In Bharat, the only data accesses made are related to opening and reading the data on the CD. With regards to the portable audio player being the external storage medium, no copy of data is written to a different storage location when a user requests a write operation to the player. As such, claims 2 and 19 are certainly not anticipated by Bharat.

Newly added claims 31-33 also possess additional novelty over Bharat. These claims require the external storage medium to be selected from the group consisting of a floppy disk; a writable CD, a removable hard disk drive, and a zip disk drive. The only external storage media that Bharat discloses are music CD's that are not writable and a portable music player. As such, these claims are clearly not anticipated by Bharat.

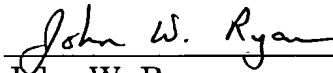
CONCLUSION

Applicants believe this response to be a full and complete response to the Office Action. In view of the foregoing, Applicants respectfully request reconsideration and allowance of claims 1-3, 5-19, 21-29, and 31-33. As the application is believed to be in condition for allowance, Applicants respectfully request a Notice of Allowability. The Examiner is invited to contact the undersigned representative should any further issues arise

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #101873.56480US).

Respectfully submitted,

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